

Financial Fraud and Identity Theft Investigation and Prosecution Program



Progress report: Performance and recommendations pursuant to [RCW 43.330.300\(1\)\(c\)](#)

**OFFICE OF FIREARM SAFETY
AND VIOLENCE PREVENTION /
PUBLIC SAFETY UNIT**

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Report to the Legislature

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Table of Contents

Executive summary..... 2

Program revenue and funding allocation 4

Task force goals and performance 6

Recommendations..... 9

Appendix A: Task force members 11

Executive summary

Overview

The Legislature created the Financial Fraud and Identity Theft Crime Investigation and Prosecution Program (FFIT) in 2008 in the Department of Commerce (Commerce). The program strengthens cooperation between law enforcement and financial industry investigators and increases the capacity to respond to financial fraud and identity theft crimes. This report meets the statutory requirements in [RCW 43.330.300\(1\)\(c\)](#):

By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include information regarding the use of funds and funding needs to facilitate a biennial review of the program's funding. The report must also include recommendations on changes to the program, including expansion.

Financial fraud and identity theft crimes are defined in [RCW 43.330.300\(4\)](#) as "check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings."

Commerce supports two regional FFIT task forces consisting of the state's four largest counties: The Greater Puget Sound Task Force, including King, Snohomish and Pierce counties, and the Spokane County Task Force. The task forces include representatives from the attorney general's office, county prosecutors, law enforcement agencies and financial institutions.

Both task forces direct grant funds to law enforcement investigations, forensic analysis and prosecutorial staff dedicated to cases generated by investigations. Fees on Uniform Commercial Code-1 (UCC-1) filings fund the FFIT program. The Department of Licensing collects and deposits UCC-1 fees into a dedicated FFIT account.

Key findings

State fiscal year 2021

- 2,482 investigations conducted (153 fewer than the previous fiscal year)
- 585 cases charged
- 1,767 counts charged (229% more than the previous fiscal year)
- 429 convictions (a 30% increase, or 100 more convictions than the previous fiscal year)
- Task forces are identifying and prosecuting significantly more sophisticated multi-person criminal organizations spanning multiple jurisdictions.

Cumulative findings in fiscal years 2011-2021

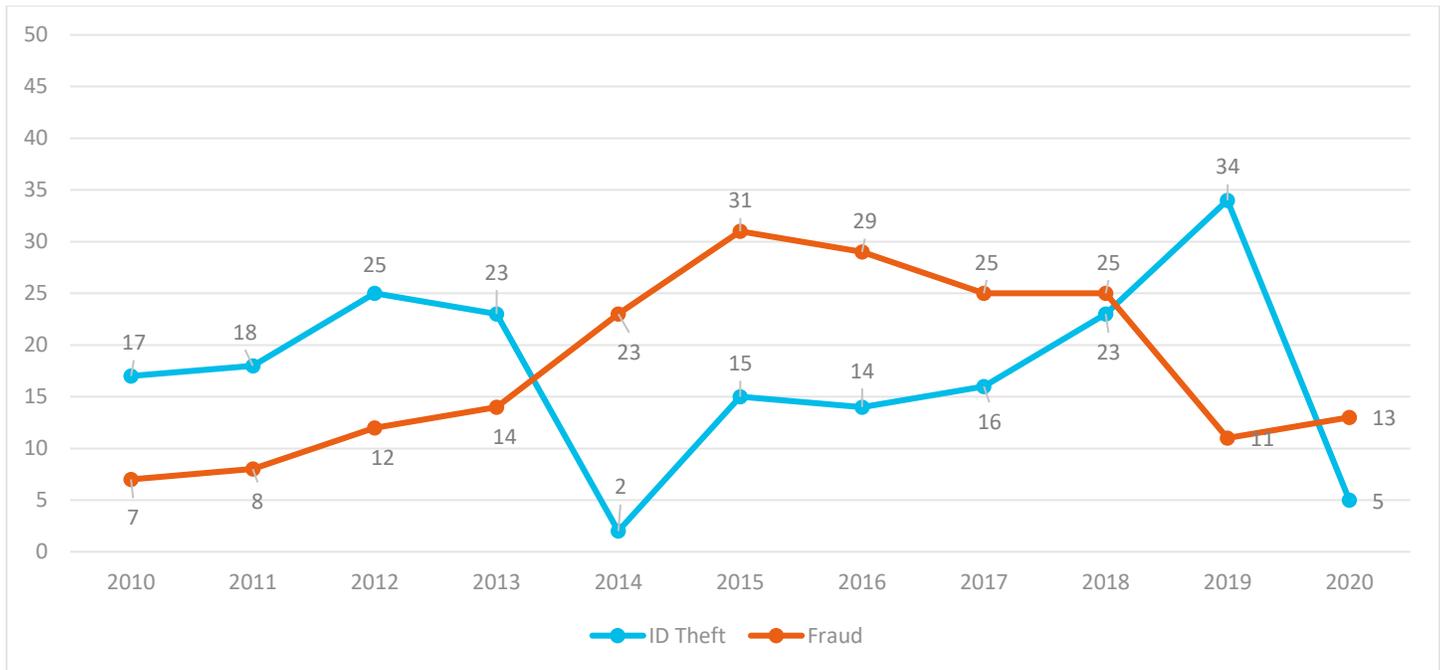
The FFIT task forces report performance quarterly to Commerce. In the years of active investigatory work (2011 through 2021), the task forces have:

- Conducted 12,057 investigations
- Charged 5,931 cases
- Charged 17,997 counts
- Obtained 5,491 convictions

Statewide trends

Figure 1 below charts Washington's ranking from 2010 to 2020 among states by reported identity theft and fraud crimes. A lower ranking indicates a higher reported crime rate (50 would be the best-ranked state, and 1 would be the worst). Although Washington's rankings have fluctuated significantly over 10 years, Washington again ranks among the worst states with the most reported fraud and identity theft crimes.

Figure 1: Identity theft crime trends in Washington (state ranking) - 2010 to 2020



Source: Federal Trade Commission, Consumer Sentinel Network Data Books, 2010-2020, <https://www.ftc.gov/enforcement/consumer-sentinel-network/reports>

Recommendations

The FFIT task forces recommend the Legislature consider statutory changes to strengthen law enforcement and criminal justice response to financial fraud and identity theft crimes:

- Elevate non-financially motivated identity theft to a first-degree charge
- Create penalty enhancements when a victim is a vulnerable individual
- Base the financial threshold for first-degree identity theft on the amount the suspect attempted to obtain
- Make possession of a skimming device a felony

Program revenue and funding allocation

Both of the state's FFIT task forces direct grant funds to law enforcement investigations, forensic analysis and prosecutorial staff dedicated to financial fraud and identity theft cases.

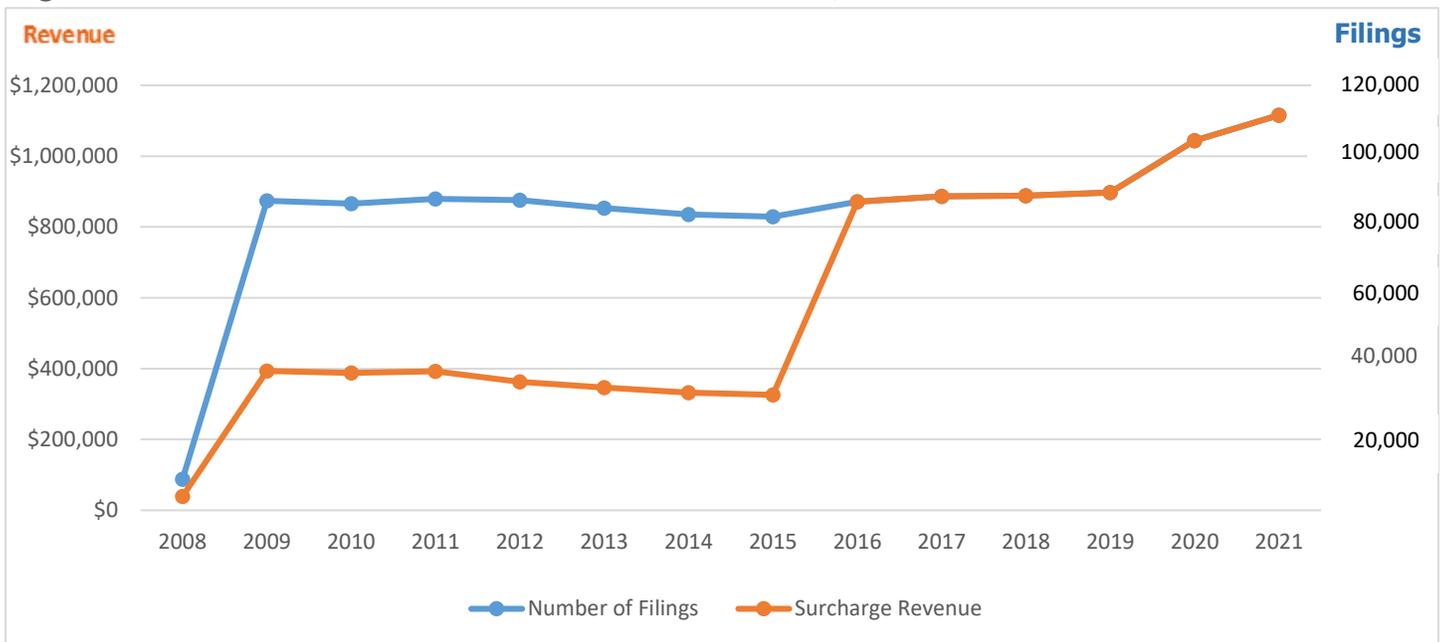
Fees on Uniform Commercial Code Financing Statement filings, also known as UCC-1 filings, fund the FFIT program. The Department of Licensing collects the fees as surcharges on personal and corporate UCC-1 filings.¹ Collected funds are transferred to Commerce monthly for the exclusive support of the activities of the FFIT program.

History of UCC-1 fee collection

Fees collection began when the FFIT program was created in 2008. After accumulating fees for a year, the task forces spent two years organizing, hiring and training staff before becoming operational. The three-year ramp-up period explains why investigation and prosecution data began in 2011 while revenue collection began in 2008.

When the Legislature reauthorized the FFIT Program in 2015, UCC-1 fees were raised to \$10. UCC-1 fees increased to \$15 beginning July 1, 2020, when the program was reauthorized in 2020.

Figure 2: Uniform Commercial Code-1 collections, SFY 2008 - 2021



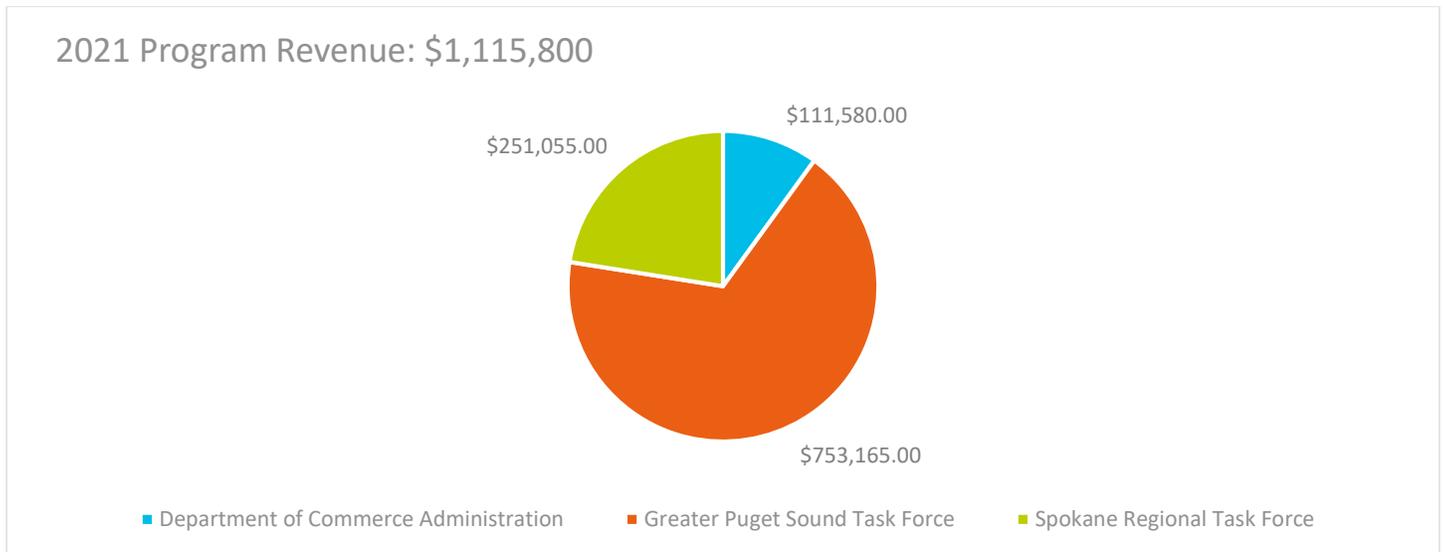
Source: Washington State Department of Licensing Monthly UCC-1 Surcharge Reports

¹ Washington State Department of Licensing, "Paper filing and search fees: UCC," <https://www.dol.wa.gov/business/UCC/uccpaperfees.html>

Program revenue allocation

Commerce retains 10% of FFIT program revenue for administration. Task forces divide the remaining funding in a manner agreed upon by the program partners and Commerce. The Greater Puget Sound Task Force includes three counties (King, Pierce and Snohomish). The Spokane County Task Force includes only Spokane County, resulting in a 3-to-1 ratio between the two task forces. After the 10% for administration, 67.5% of program funding is allocated to the Greater Puget Sound Task Force and 22.5% is allocated to the Spokane County Task Force. Figure 3 shows the allocation of the total funding.

Figure 3: Program revenue allocation



Source: Department of Commerce

The Greater Puget Sound Financial Fraud and Identity Theft Task Force (King, Pierce and Snohomish counties) uses the funds for salaries and benefits as follows:

- 0.5 FTE, deputy prosecuting attorney from the King County Prosecuting Attorney's Office
- 0.75 FTE, detective from the King County Sheriff's Office
- 0.5 FTE, deputy prosecuting attorney from the Pierce County Sheriff's Office
- 0.92 FTE, analyst from the Redmond Police Department
- 1.0 FTE, deputy prosecuting attorney from the Snohomish County Prosecuting Attorney's office

The Spokane Regional Financial Fraud and Identity Theft Task Force uses the funds for salaries and benefits, as well as goods and services, as follows:

- Investigative staff from the Spokane County Sheriff's Office
- Legal staff from the Spokane County Prosecuting Attorney's Office

Task force goals and performance

The FFIT task forces submit quarterly performance reports to Commerce, then follow up with two semi-annual narrative reports of ongoing operational successes and accomplishments. These reports describe the planning and staffing of investigations, apprehension of suspects, prosecution of financial fraud and identity theft crimes, and new and best practices.

Statewide performance goals

Statewide, the task forces' performance goal is achieving 92 convictions per quarter. Since establishing this performance measure in 2011, the task forces have achieved an average of 125 convictions each quarter over 44 quarters, with 5,491 individuals convicted.

This data shows the task forces are far exceeding their original goal.

Task force performance

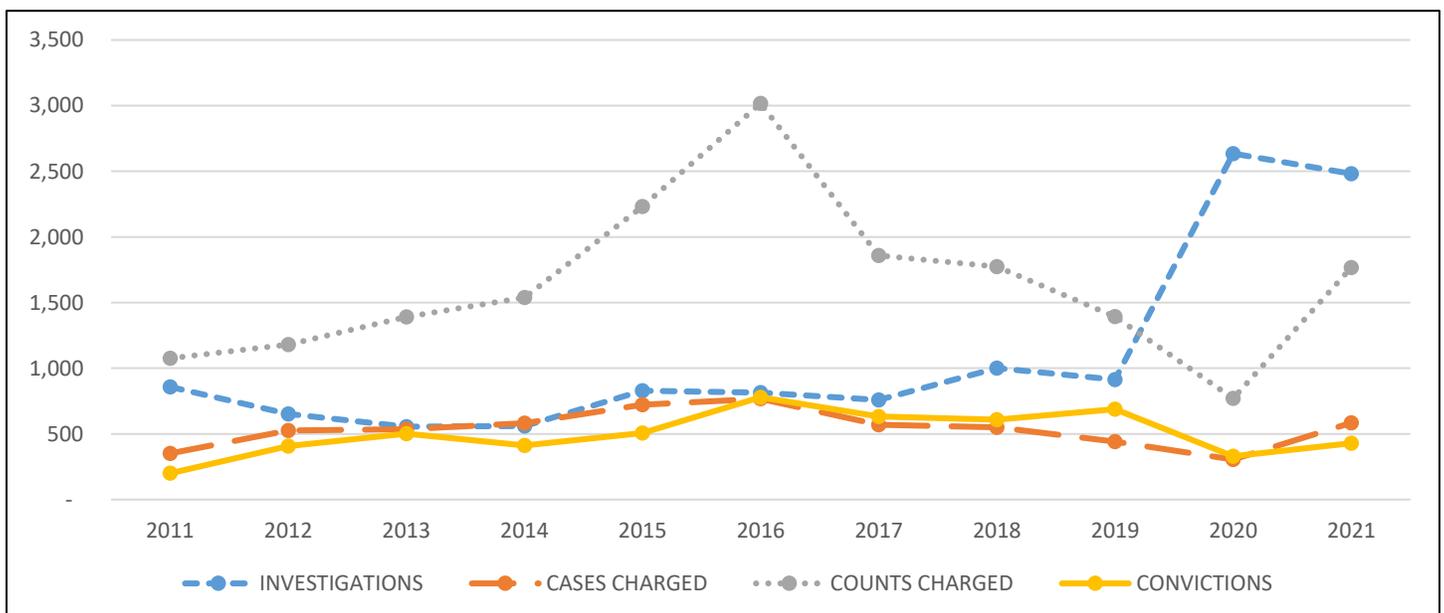
The FFIT task forces continue to make improvements in identifying, arresting and prosecuting individuals and groups engaged in the criminal enterprise of financial fraud and identity theft. Each year, both task forces have incrementally increased the scope of their investigations, pursuing larger and more complex criminal enterprises.

In fiscal year 2021, the FFIT task forces produced a combined:

- 2,482 investigations
- 585 cases charged

Combined task force performance from state fiscal year 2011 through 2021 is presented in Figure 4. Data for the two task forces are presented separately in Figures 5 and 6.

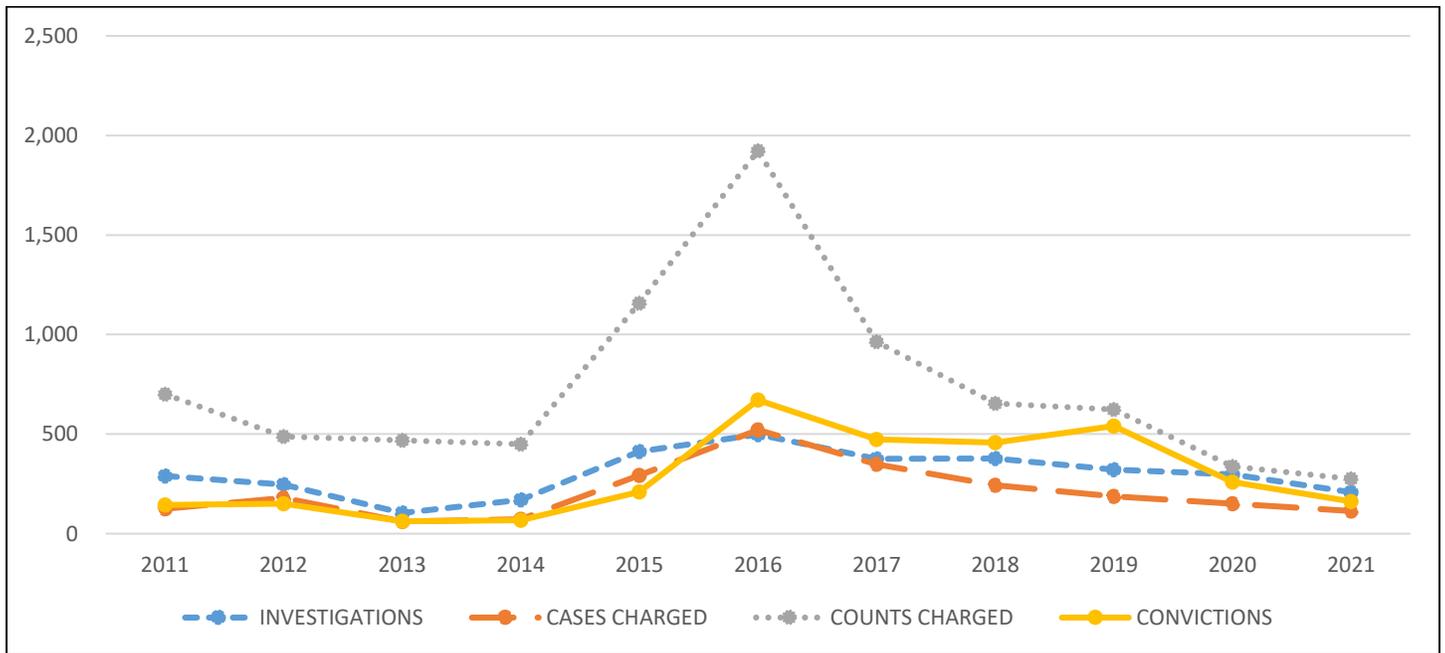
Figure 4: Statewide Task Force performance, SFY 2011-2021



Source: FFIT Task Force Quarterly Reports

During state fiscal year 2021, the Greater Puget Sound Task Force conducted 208 investigations, prosecuted 114 cases involving 275 counts, and obtained 162 convictions.

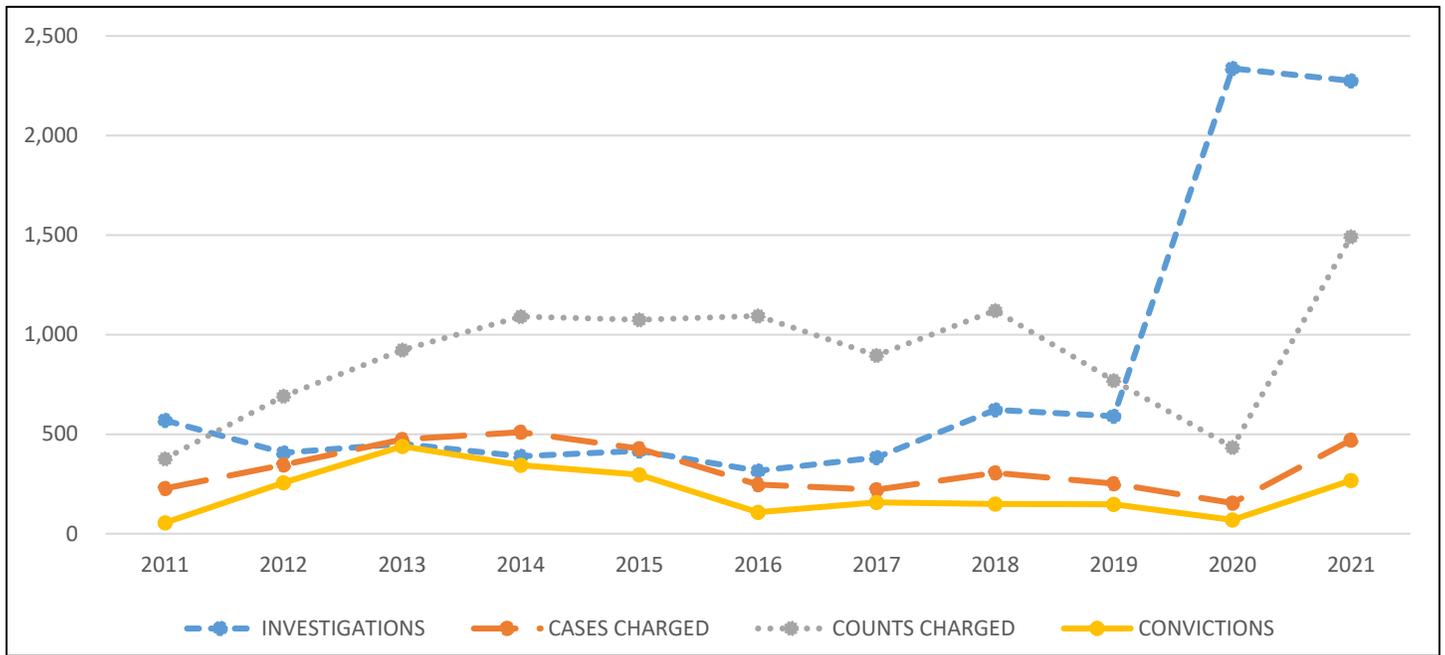
Figure 5: Greater Puget Sound Task Force performance, SFY 2011 – 2021



Source: Greater Puget Sound Task Force Quarterly Reports

During state fiscal year 2021, the Spokane County Task Force conducted 2,274 investigations, prosecuted 585 cases involving 1,767 counts, and obtained 429 convictions.

Figure 6: Spokane County FFIT Task Force performance by SFY 2011-2021



Source: Spokane County FFIT Task Force Quarterly Reports

Note on change in data collection for counts changed

In 2017, prosecutors began reporting all counts-charged data. Previously, law enforcement reported some of the counts-charged data. Since prosecutors do not always prosecute every charge identified by law enforcement, this change results in more accurate data beginning in state fiscal year 2017. It also accounts for the reduced number of counts charged for both task forces in 2017 (Figures 5 and 6).

Recommendations

FFIT task forces developed the following recommendations to strengthen law enforcement and criminal justice response to financial fraud and identity theft crimes.

Elevate non-financially motivated identity theft to a first-degree charge

The FFIT task forces recommend a first-degree charge for identity theft motivated by the intent to avoid apprehension by law enforcement. Currently, this crime is charged as Identity Theft in the Second Degree under [RCW 9.35.020](#). An increased penalty for this charge should deter individuals from using stolen identities to avoid arrest for other, more serious crimes.

A suspect will sometimes give an identity theft victim's name to police in an attempt to avoid arrest. Unless law enforcement books the suspect into jail, where fingerprints can confirm identity, the victim – rather than the suspect – may receive a criminal citation. This deception could result in an arrest warrant, creating a criminal history for the victim of identity theft. However, so long as the "loss" is less than \$1,500, only a charge of Identity Theft in the Second Degree under [RCW 9.35.020](#) is currently allowable against the suspect for this type of crime.

Create penalty enhancements when a victim is a vulnerable individual

The task forces recommend the Legislature create penalty enhancements that may be added for financial fraud and identity theft crimes when the victim is a senior or vulnerable individual.

Base the financial threshold for first-degree identity theft on the amount the suspect attempted to obtain

The task forces recommend the Legislature change the financial threshold for Identity Theft in the First Degree. The threshold is currently "credit, money, goods, services, or anything else of value in excess of \$1,500 obtained from identity theft."² The task forces recommend changing the first-degree charge to be based on what the defendant attempted to obtain by misusing the victim's identity rather than what they obtained.

Currently, a defendant who uses a stolen identity to attempt an unsuccessful high-dollar value crime can only be charged with Identity Theft in the Second Degree. Basing the level of identity theft on the amount the defendant attempted to obtain, rather than on the amount the defendant obtained, avoids rewarding suspects who use stolen identities to attempt to commit the most serious crimes and are unsuccessful only because they are caught or because their plans otherwise fail.

² [RCW 9.35.020\(2\)](#)

Make possession of a skimming device a felony

The task forces recommend making possession of a skimming device with criminal intent to commit identity theft a felony under [RCW 9.35.020](#). This statutory change will strengthen prosecutorial tools in all jurisdictions in Washington. Increasingly, skimming is a problem in identity theft cases. Skimming devices allow people to obtain financial and personal information directly from credit and debit card magnetic stripes. There are legitimate reasons to use skimmers, such as when small businesses use such devices on mobile phones to sell goods and services. However, identity thieves use skimming devices and card re-encoders to retrieve an individual's financial information to make counterfeit credit cards. Currently, the only charge available for possessing a skimmer with intent to commit a crime is Attempted Identity Theft in the Second Degree, a gross misdemeanor. The task forces believe this is an inadequate charge for such a sophisticated crime.

Appendix A: Task force members

Table 1: Greater Puget Sound FFIT Task Force members

Entity	Representative
King County Prosecuting Attorney's Office	Patrick Hinds, senior deputy prosecuting attorney, GPS-FFIT executive board co-chair, grantee representative
Boeing Employees Credit Union	Mitch Mondala, BECU Security - Financial Crimes Unit, GPS-FFIT executive board co-chair
Redmond Police Department	Lieutenant Martin Fuller
Pierce County Sheriff's Office	Sergeant Teresa Burg
Pierce County Prosecuting Attorney's Office	Brook Burbank, deputy prosecuting attorney/assistant chief criminal deputy
Columbia Bank	John Fick, vice president/fraud investigations unit manager
Snohomish County Prosecutor's Office	Michael Held, deputy prosecuting attorney/chief of staff
Sound Credit Union	Angie May, senior fraud investigator, GPS-FFIT executive board secretary
Washington State Attorney General's Office	Barbara Serrano, assistant attorney general
JP Morgan Chase	Barbara VanArshall, JPMC Security - National Vulnerable Adult Investigations
Bank of America	Tim Whitesitt, vice president/senior investigator
King County Sheriff's Office	Major Jon Mattsen
United States Attorney's Office	Vacant (TBD)
Federal law enforcement	Vacant (TBD)

Table 2: Spokane County FFIT Task Force members

Entity	Representative
Spokane County Sheriff's Office	John Nowels, Undersheriff/Chair
Spokane County Sheriff's Office	Rob Sherar, inspector
Spokane County Prosecutor's	Steve Garvin, senior prosecutor
Spokane Police Department	Brad Arleth, captain
Spokane Teachers Credit Union	Jim Fuher, fraud prevention manager
Washington State Attorney	Mark Porter, investigator
Small towns and cities	Vacant (TBD)